

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	CRIMINAL ACTION NO.
v.	)	2:17cr482-MHT
	)	(WO)
CYRUS PHYFIER	)	

OPINION AND ORDER

Defendant Cyrus Phyfier moved to suppress evidence found by law enforcement during two searches: one of an apartment and another of a house. This case is before the court on the recommendation of the United States Magistrate Judge (doc. no. 381) that Phyfier's motion to suppress (doc. no. 339) be denied as to the evidence found in both locations. There are no objections to the recommendation. Upon an independent and de novo review of the record, the court concludes that the recommendation should be adopted to the extent it recommends denial of the motion to suppress the evidence found in the search of the house.

The court concludes, however, that the recommendation is moot to the extent it addresses

Phyfier's argument for suppression of the evidence found in the apartment, for the following reason. After the recommendation was entered, and before the deadline for objections, Phyfier filed an amended motion to suppress the evidence found in the apartment only, and the magistrate judge granted leave for him to file the amended motion out of time. See Amended Motion to Suppress (doc. no. 391); Order (doc. no. 394) (granting leave to file the amended motion). The amended motion supplants the original motion to suppress as to the search of the apartment. It also is the subject of another pending recommendation (doc. no. 467). The court will address that recommendation and the motion to suppress the evidence found in the apartment in a separate opinion.

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Accordingly, it is ORDERED as follows:

(1) The recommendation of the United States Magistrate Judge (doc. no. 381) is adopted to the extent that it recommends denial of the motion to suppress the evidence found in the search of the house, and the recommendation is rejected as moot in the remaining respect.

(2) The motion to suppress (doc. no. 339) is denied as to the evidence found in the search of the house.

DONE, this the 29th day of May, 2019.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE